



**FLEXIBLE GRANT PROGRAM NOTICE OF FUNDING AVAILABILITY  
FOR INNOVATIVE APPROACHES TO PROVIDE BROADBAND SERVICE  
TO UNSERVED TOWNS IN WESTERN MASSACHUSETTS**

**NOFA No. 2018-MBI-01**

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<b>Notice Issued:</b>	<b>October 5, 2017</b>
<b>Team Leader:</b>	<b>Ed Donnelly</b>
<b>Expressions of Interest Due:</b>	<b>Rolling</b>

## 1. INTRODUCTION

The Massachusetts Technology Collaborative (“MassTech”), on behalf of the Massachusetts Broadband Institute (“MBI”), is issuing this public notice of funding availability (“NOFA”) through the targeted Flexible Grant Program (“FGP”) (NOFA No. 2018-MBI-01). The FGP will support Last Mile broadband connectivity for certain towns in western Massachusetts that express an interest in being included in this NOFA for the purpose of considering proposals offered by private broadband providers (“Town(s)"). MBI is publicly posting the NOFA and will also distribute the NOFA directly to the Last Mile towns in western Massachusetts that are still evaluating broadband connectivity options. MBI will publish and periodically update, as necessary, an addendum to this NOFA that lists the Last Mile towns in western Massachusetts that opt in to participate in the FGP (“Last Mile Town Addendum”).

The goal of the FGP is to provide grant funding to capable communications network companies (“Provider(s)”) willing to design, build, own, operate and maintain a communications network in one or more of the Towns that will provide residents with broadband internet access that meets or exceeds the current Federal Communications broadband benchmark of 25 Mbps download and 3 Mbps upload speeds (the “Broadband Project”). The FGP seeks creative, flexible solutions to meet this critical challenge.

The FGP is intended to serve as an open, rolling solicitation for innovative approaches that will permit MBI and the Towns to establish partnerships with Providers to deliver reliable broadband access on a long term basis to as many residents as possible based on available public funds. In 2015, MBI established a grant allocation for the benefit of each town in Western Massachusetts that was unserved at that time. MBI has preserved these grant allocations and these funds are available for grants to support service in the participating Towns.

Each Town that elects to participate in the FGP has evaluated broadband connectivity options and determined that a private sector solution represents a viable option that warrants further consideration. MBI will afford considerable deference to Town judgments about the most appropriate solution to meet the long term needs of its residents.

MBI remains focused on the principles announced in its May 10, 2016 Last Mile Broadband Implementation Framework. Under the FGP, and with the consent of a participating Town, however, MBI will consider variations to that framework. For broadband solutions delivered by private providers, the FGP provides MBI with the flexibility to consider alternative solutions based on a range of program criteria that may include:

- Modifications in Coverage Requirement - While MBI remains committed to its previously stated goal of achieving at least 96% broadband coverage within each Town, MBI is willing to entertain proposals to fund Broadband Projects that will result in less than 96% coverage, if requested to do so by the Town. In these cases, MBI will work with the Provider and the Town to determine the feasibility of implementing a phased approach to achieving 96% coverage over time. The Last Mile Town Addendum will identify whether a Town has indicated a willingness to consider coverage levels lower than 96%.
- Modifications in Sources of Project Funding – MBI will entertain project financing arrangements that incorporate the investment of municipal funds, if requested to do so by the Town.

In November, 2016, MBI issued a Request for Proposals No. 2017-MBI-02 designed to provide grant funding to established private broadband providers interested in providing broadband service to any Last Mile town in Western Massachusetts then without broadband service. That RFP concluded with the issuance of grants to serve 6 towns and approximately 4,000 premises. The November RFP is now

closed, and this FGP initiates an entirely separate solicitation that will employ a different process and modified set of criteria for evaluating proposals.

## **2. BROADBAND PROVIDER CAPABILITIES**

MBI recognizes the unique status that broadband infrastructure occupies for rural towns based on (1) the critical importance of broadband service to the economic, educational and civic vitality of our communities; and (2) the capital intensive nature and high barriers to entry associated with constructing a broadband network. These barriers to entry are likely to place practical limitations on the ability of a rural town to secure alternative service if a Provider encounters financial difficulties that impact its operation of the network, including the worst case scenario where the network goes dark. Therefore, MBI reaffirms its strong preference to work with Providers that possess the organizational capacity, financial resources and requisite experience to fulfill all grant obligations and effectively manage the construction risk and long-term operational risk associated with an initial ten to fifteen year commitment.

If a Provider lacks the organizational, financial or experiential capacity to address the construction and/or long term operational risks associated with broadband network Projects, MBI is prepared to work with the Town and Provider to identify ways to structure the transaction to address these concerns and appropriately mitigate these risks. Appropriate measures may include, without limitation, incorporating into any grant agreement instruments guaranty provisions such as a performance bond, completion insurance, surety provisions, or providing the Commonwealth or the Town with a security interest in the Provider's network assets, or encouraging a Provider to partner with a more established entity as a substantial partner and financial participant in the network construction and operation.

To the extent feasible, MBI will also seek to ensure that broadband service is made available in each Town on terms, conditions and prices that are reasonably comparable to those available in towns in the region that are already receiving broadband service.

## **3. FLEXIBLE GRANT PROGRAM PROCESS**

### **Engagement with Towns and Providers and Submission of Expressions of Interest**

MBI has designed the FGP to permit Providers, MBI, and Towns to engage in a flexible, iterative process to develop high value proposals to provide the best available solution for these currently unserved towns. Accordingly, the FGP contemplates that in response to an initial expression of interest from a Provider or a Town, a proposal will be developed or refined through negotiations among the Provider, MBI, and the Town. A process for engagement among the parties will be specified in an Action Plan (see below). MBI may also directly solicit proposals from private providers that have previously communicated an interest in providing broadband service to unserved Towns. MBI welcomes expressions of interest submitted by private providers or jointly by private providers in partnership with participating Town(s).

No general, fixed timelines or deadlines will govern submissions under the FGP, and the process will remain open until further notice. Town(s) or Provider(s) may contact MBI on a preliminary, informal basis to seek guidance, clarification or to provide input on the NOFA. However, MBI will consider and evaluate a proposal for a Broadband Project only upon receipt of a written expression of interest.

Expressions of interest should be submitted by email to [proposals@masstech.org](mailto:proposals@masstech.org).

## **Action Plans**

Upon receipt of an expression of interest, MBI will schedule an intake/exploratory meeting with representatives of the Provider and a Town or group of Towns. Where initial discussions generate substantial Town support, MBI will work the Town and the Provider through a process that will be described in a customized Action Plan tailored to the specific characteristics of each proposed Broadband Project. The Action Plan will identify the responsibilities and tasks to be undertaken by each party. For example, an Action Plan may identify the need for the Town(s) to determine the nature of local votes and state legislative authorizations that may be needed to move forward with a particular funding approach. As another example, if the Provider intends to offer multi-channel video programming service in any Town, the Action Plan will address the legal requirement that the Provider enter into a cable television license agreement with the Town that complies with state and federal laws and regulations.

## **Grant Award Process**

MassTech will publicly post a summary of the proposed Broadband Project after the Action Plan is finalized. The posting will provide a general summary of the Provider's proposed service offering, coverage percentage, roll-out timeline, and the sources and amounts of funding required to deliver the proposed service offering. The public posting will be maintained and updated, as needed, until a grant award decision is made by MassTech/MBI or discussion among the parties is terminated. The posting will serve to fulfill basic requirements of good procurement practice and afford other private broadband providers the opportunity to come forward and propose a comparable or more advantageous solution. At any point during the FGP process, the Town or the Provider may declare discussions at an end at any point with no further obligations from any party to the others.

Following a final decision to issue a grant, MBI will make a grant award directly to the Provider selected to serve a Town in the amount up to the Town's designated grant allocation. Grant funds may be used only to subsidize the Provider's Network construction costs in that Town. Other than the funding provided through this FGP and through such other public funding as may become available, a selected Provider will bear all network construction costs as well as all costs associated with owning, operating, and maintaining each network.

Additional administrative provisions associated with the FGP are referenced in Attachment A.

## **4. ACTION PLAN CONSIDERATIONS / EVALUATION CRITERIA**

MBI will develop and implement each Action Plan in a manner that reflects programmatic considerations that include, but are not limited to:

- a. Technical considerations, including, but not limited to, the capacity of the proposed Broadband Project to deliver higher broadband speeds, initially and over time to meet evolving subscriber needs.
- b. Level of proposed broadband coverage. MBI will view more favorably proposed broadband networks that meet or exceed 96% residential coverage. MBI, to the extent feasible, will seek to facilitate approaches that chart a clear path toward expansion of network coverage in the event that proposed coverage levels do not meet or exceed 96%.
- c. Addressing the extent to which Provider's financial resources, strength, stability and outlook provide reasonable assurance of the Provider's ability to address MBI's

concerns about execution of the grant obligations and long term operation of broadband network(s) and delivery of broadband services

- d. Addressing the extent to which Provider's organizational structure supports fulfilment of grant program goals and requirements
- e. Addressing the extent to which Provider's experience demonstrates successful construction, operation, and maintenance of broadband networks of similar size, scale and characteristics.
- f. The overall cost of the project based on state funding requested, potential municipal contributions and overall cost to the subscriber.
- g. Timing of proposed Broadband Project schedule and roll-out of service.
- h. Quality, range and pricing of broadband service options (including extent to which pricing is reasonably comparable to similar, geographically proximate, communities currently receiving broadband service) and options for subscribers to purchase additional services, such as so-called Triple Play services (broadband, telephone and multi-channel video programming) on a bundled and unbundled basis.

## **Attachment A**

### **General NOFA Provisions**

1. This NOFA, as may be amended by MassTech, does not commit MassTech to select any firm(s), pay any costs incurred in preparing an expression of interest, or award any grants. MassTech reserves the right, in its sole discretion, to make no grant awards, or to award less than the maximum amount of funds potentially available.
2. Responses, proposals, data, materials, information and documentation submitted to Mass Tech in response to this NOFA shall become MassTech's property and shall be subject to public disclosure. As a public entity, MassTech is subject to the Massachusetts Public Records Law (set forth at Massachusetts General Laws Chapter 66). There are very limited and narrow exceptions to disclosure under the Public Records Law. If a Provider wishes to have MassTech treat certain information or documentation as confidential, the Provider must submit a written request to MassTech's General Counsel in advance of any submission. The request must precisely identify the information and/or documentation that is the subject of the request and provide a detailed explanation supporting the application of the statutory exemption(s) from the Public Records Law cited by the Provider. The General Counsel will issue a written determination within ten business days of receipt of the written request. If the General Counsel approves the request, the Provider shall clearly label the relevant information and/or documentation as "CONFIDENTIAL" in the documentation submitted to MassTech and shall only include the confidential material in the hard copy of the document. Any statements by the Provider reserving any confidentiality or privacy rights that is inconsistent with these requirements and procedures will be disregarded.
3. Should any statement asserted by a Provider regarding its capabilities or experience prove to be inaccurate, such inaccuracy shall constitute sufficient cause for MassTech in its sole discretion to terminate the Action Plan or terminate any resulting Grant Agreement.
4. This NOFA has been distributed electronically using the MassTech and MBI websites. If MassTech determines that it is necessary to modify or clarify any part of this NOFA, an update NOFA or NOFA addendum will be posted to the MassTech and MBI websites. It is the responsibility of Providers and Towns to check the MassTech and/or MBI websites for any addenda or modifications to the NOFA.